

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1401 of 1998

in

SPECIAL CIVIL APPLICATION No 5680 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

SAVAISINGH SUGANSINGH CHAUHAN

Versus

COMMANDANT

Appearance:

MR IS SUPEHIA for Appellant
MR SP HASURKAR for Respondents

CORAM : MR.JUSTICE C.K.THAKKER and
MR.JUSTICE A.L.DAVE

Date of decision: 22/12/98

ORAL JUDGEMENT (Per A.L. Dave, J.)

1. Admitted. Mr. Hasurkar waives service of notice of admission on behalf of the respondents. With the consent of parties, the matter is taken up today for

final hearing.

2. We have heard Mr. Supehia for the appellant and Mr. Hasurkar for the respondents.

3. The present Letters Patent Appeal challenges the order of this Court in Special Civil Application No.5680 of 1998, which came to be dismissed by the learned Single Judge on the ground that earlier Special Civil Application No.5140 of 1983 preferred by the present appellant for the same cause came to be dismissed on merits by this Court. It is undisputed fact that no Letters Patent Appeal was preferred against the order passed in Special Civil Application No.5140 of 1983 and, therefore, that order has attained finality. That order is not in challenge before us.

4. Although that order is not in challenge before us, we would like to quote the observation made by the learned Single Judge while deciding Special Civil Application No.5140 of 1983.

"Last but not least, this writ petition deserves to be dismissed on another ground that the petitioner has deliberately concealed important material facts from this Court. The petitioner has not only concealed the important fact, but he deliberately made a false statement that the order of dismissal is not served upon him. It is a case where the petitioner has, on the other hand, made himself unavailable for the service of order. The said order has been sent to his residence and when he was not available, the same has been pasted at his residence, the only course and the method available to the respondent. The averments in the reply have not been controverted. From the averment made in the amendment, it is clear that the petitioner was in occupation of Room No.24 in Block No.8, which was allotted to him and he was in occupation thereof till 14th October, 1983. This writ petition otherwise also deserved dismissed on the ground that the petitioner made a false statement before this Court."

5. After the above order was passed, the petitioner approached the Appellate Authority and the Appellate Authority dismissed the appeal on the ground that the appeal was preferred after 14 years, which was challenged before this Court by preferring Special Civil Application No.5680 of 1998, wherein the impugned order is passed.

In the impugned order, the learned single Judge observed that the case of the appellant was considered on all the aspects of the matter on merits and also on the ground that the appeal was preferred after 14 years. He has also considered that the petitioner had not given reply to the charge sheet and had also not filed reply at the final stage.

6. In view of the above facts situation, in our view, no error or illegality is committed by the learned Single Judge while deciding Special Civil Application No.5680 of 1998, the disposal order of which is under challenge before us. Under the circumstances, the appeal is found to be devoid of merits and is, therefore, dismissed. No costs.

[C.K. THAKKAR, J.] [A.L. DAVE, J.]

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